

MEETING NOTICE AND AGENDA

MANSFIELD PLANNING AND ZONING COMMISSION

Regular Meeting

Monday, May 6, 2013 ■ 7:05 PM

Or Upon completion of the Inland Wetlands Agency Meeting

Audrey P. Beck Municipal Building ■ 4 South Eagleville Road ■ Council Chambers

1. **Call to Order**
2. **Roll Call**
3. **Approval of Minutes**
 - a. April 15, 2013 Regular Meeting
4. **Zoning Agent's Report**
 - Monthly Activity Update
 - Enforcement Update
 - Other
5. **Public Hearings**
6. **Old Business**
 - a. **Subdivision Pre-Application Review: Campus Crossings, 574-596 Middle Turnpike, (File #1317)**
Memo from Director of Planning and Development
 - b. **Special Permit Application, Efficiency Unit, 92 Cedar Swamp Road, T. & C. Jeffers, Owner & Applicant (File # 1318)**
(Tabled pending June 3, 2013 Public Hearing)
 - c. **Other**
7. **New Business**
 - a. **Request for shed outside of BAE, 140 Wormwood Hill Rd. C.Gile, Owner & Applicant. Mulwood East Subdivision (File # 1225)**
Memo from Zoning Agent
 - b. **2 Lot Subdivision Application, Storrs Center Phase 1C, East of Storrs Road and West of Village Street (File #1246-11)**
Memo from Director of Planning and Development
 - c. **Approval Request: Revised Plans for Paideia Greek Theater Project Exhibit Building, 28 Dog Lane (File #1049-7)**
Memo from Director of Planning and Development

d. Gravel Permit Renewals

- Banis property on Pleasant Valley Road (File #1164)
- Hall property on Old Mansfield Hollow Road (File #910-2)
- Green Property, 1090 Stafford Road (File #1258)
- Mason Brook LLC/Kueffner Property, 3 Merrow Road (File #1309)

Memo from Zoning Agent

e. Other

8. Mansfield Tomorrow | Our Plan ► Our Future

9. Reports from Officers and Committees

- a. Chairman's Report
- b. Regional Planning Commission
- c. Regulatory Review Committee
- d. Planning and Development Director's Report
- e. Other

10. Communications and Bills

- a. Spring 2013 Connecticut FPZA Quarterly Newsletter

11. Adjournment

DRAFT MINUTES
MANSFIELD PLANNING AND ZONING COMMISSION
Regular Meeting
Monday, April 15, 2013
Council Chamber, Audrey P. Beck Municipal Building

Members present: J. Goodwin (Chairman), B. Chandy, R. Hall, K. Holt, G. Lewis, P. Plante,
K. Rawn, B. Ryan
Members absent: B. Pociask
Alternates present: V. Ward
Alternates absent: A. Marcellino, S. Westa
Staff Present: Curt Hirsch, Zoning Agent

Chairman Goodwin called the meeting to order at 7:00 p.m. and appointed Ward to act in Pociask's absence.

Holt MOVED, Ryan seconded, to add to the Agenda under New Business, the EIE for ECSU and a Request from Gibbs for a Bond Release. MOTION PASSED UNANIMOUSLY.

Minutes:

4-1-13 Meeting Minutes- Chandy MOVED, Ryan seconded, to approve the 4/1/13 Meeting Minutes as presented. MOTION PASSED UNANIMOUSLY with Ward noting that she listened to the record of the meeting.
4-10-13 Field Trip Minutes- Ryan MOVED, Holt seconded, to approve the 4/10/13 Field Trip Minutes as presented. MOTION PASSED with Goodwin, Holt and Ryan in favor and all others disqualified.

Zoning Agent's Report:

Noted.

Public Hearings:

Scenic Road Application, Brown's Road west of Storrs Road/Route 195; Jonathan Sgro, Applicant, PZC File #1010-9

Chairman Goodwin opened the Public Hearing at 7:04 p.m. Holt disqualified herself. Members present were Goodwin, Chandy, Hall, Lewis, Plante, Rawn, Ryan and alternate Ward who was appointed to act. Curt Hirsch, Zoning Agent, read the Legal Notice as it appeared in The Chronicle on April 2, 2013 and April 10, 2013. Hirsch noted the following communications received and distributed to members: a 4/11/13 memo from Linda Painter, Director of Planning and Development; an undated letter from Michael Moran of 71 Browns Road; 3/26/13 minutes of the Traffic Authority Meeting.

The applicant, Jonathan Sgro of 57 Brown's Road, outlined the reasons he believes the eastern ½ mile of Brown's Road should be designated as a Scenic Road. He responded to some of the concerns raised in Michael Moran's letter and stated that the intent of his request is to keep the Town and current or future property owners from significantly disturbing the historic stonewall that runs along this stretch of the road.

Plante questioned how designating Brown's Road as a Scenic Road would affect tree trimming/removal, noting the significant damage to trees during recent storms.

Ryan noted comments from the Traffic Authority regarding extending the designation to the intersection with Crane Hill Road. Sgro responded that he didn't feel the remaining portion of Brown's Road to Crane Hill Road was scenic because the stone wall does not extend beyond the half mile portion of road he proposed.

Chairman Goodwin noted there were no further comments or questions from the Public or Commission. Plante MOVED, Hall seconded, to close the Public Hearing at 7:12 p.m. MOTION PASSED UNANIMOUSLY.

Special Permit Application, Efficiency Unit, 85 Birchwood Heights, M. Balsamo Owner & Applicant: PZC File #1316

Chairman Goodwin opened the Public Hearing at 7:13 p.m. Members present were Goodwin, Chandy, Hall, Holt, Lewis, Plante, Rawn, Ryan and alternate Ward who was appointed to act. Curt Hirsch, Zoning Agent, read the Legal Notice as it appeared in The Chronicle on April 2, 2013 and April 10, 2013. Hirsch noted the following communications received and distributed to members: a 4/11/13 memo from Linda Painter, Director of Planning and Development; a 4/11/13 approved B100a application from E.H.H.D. with an email from Geoffrey Havens, and a 4/9/13 memo from Windham Water Works.

The applicant, Margherita Balsamo, 85 Birchwood Heights was present. The applicant verified that she resides at the home and plans to remain in residence. It was emphasized that the property must remain owner-occupied if approval for an efficiency apartment is granted. She stated that staff explained this to her.

Chairman Goodwin noted there were no further comments or questions from the Public or Commission. Hall MOVED, Plante seconded, to close the Public Hearing at 7:17 p.m. MOTION PASSED UNANIMOUSLY.

Old Business:

a. Subdivision Application, 29 North Windham Road; J. Sauve, applicant: PZC File #1311

Rawn MOVED, Holt seconded, to approve with conditions the subdivision application (File #1311) of James Sauve on property owned by the applicant located at 29 North Windham Road in an RAR-90 zone, as submitted to the Commission and shown on plans dated December 21, 2012 and revised through March 1, 2013 and as presented at public hearings on February 4, 2013 and April 1, 2013.

Pursuant to Sections 7.5 and 7.6 of the Subdivision Regulations, this approval accepts the applicants proposed lot layout and hereby authorizes the necessary reductions to frontage (Lots 2 and 3) and setbacks as depicted through the proposed Building Area Envelopes (Lots 1, 2 and 3). These reductions minimize the impact to steep slopes on the property and result in a greater proportion of the property being preserved for agricultural use than could be accomplished using a conventional design.

Pursuant to Section 7.10 of the Subdivision Regulations, this approval accepts the use of a common driveway to serve lots 2 and 3. The use of a common driveway in this location significantly reduces the impacts to steep slopes that would be incurred if a cul-de-sac street were to be required in this location.

This approval is granted because the application as hereby approved is considered to be in compliance with the Mansfield Zoning and Subdivision Regulations and is granted with the following conditions:

1. **Frontage and Setback Reductions.** The approved reductions in frontage and setbacks shall be specifically noted on the plans and on the deeds of the affected and abutting lots. Unless the Commission specifically authorizes revisions, the depicted building envelopes shall serve as the setback lines for all future structures and site improvements, pursuant to Article VIII of the Zoning Regulations. This condition shall be specifically noticed on the Land Records.
2. **Common Driveway.** No lots within the subdivision shall be sold until the common driveway is completed and accepted by the Town of Mansfield or a financial guarantee in an amount approved by the Assistant Town Engineer and Director of Planning and Development has been accepted. Prior to acceptance of the common driveway or approval of a financial guarantee, a common driveway easement that addresses maintenance and liability issues must be approved by the PZC Chair with assistance from

staff and the Town attorney and recorded on the land records. This condition shall be noted on the plans and specifically noticed on the Land Records.

The amount of the financial guarantee must cover the estimated cost of remaining construction plus 15% contingency. The financial guarantee must comply with the requirements of Article VI, Section C of the Zoning Regulations and shall include an appropriate signed agreement approved by the PZC Chair with staff assistance. Use of a surety bond to fulfill this condition will require special approval from the Commission. To address this condition, the applicant shall submit a construction cost estimate at the time a financial guarantee is proposed.

No Certificates of Compliance for new homes shall be issued until the common driveway has been completed and accepted by the town.

3. Erosion and Sedimentation Controls. Prior to the commencement of any site work, a financial guarantee for erosion and sedimentation controls in the amount of \$5,000 shall be submitted by the applicant and approved by the PZC Chair with staff assistance. The form of the financial guarantee shall be subject to the same terms as described in the condition above. The subdivision plans shall be revised to incorporate this condition. To help ensure that proposed erosion and sediment control measures are appropriately installed and maintained, bi-weekly erosion and sedimentation-monitoring reports shall be submitted to the Zoning Agent and Wetlands Agent until all site work is completed and disturbed areas are stabilized.

4. Agricultural Easements. Pursuant to the open space provisions of Section 13, this approval accepts the proposed agricultural easements for the barn and farm areas on Lot 1 in lieu of dedication of open space. Easement documents based on the Town's model format shall be approved by the Director of Planning and Development and Town and shall include references to applicable state and federal requirements for use and storage of fertilizer, pesticides and manure and encourage the use of best practices as recommended by organizations identified in Article X, Section T.2.a and T.3.a.7. The easement documents shall be executed and filed on the Land Records in association with final plans. Easements shall be incorporated into notes on the final plan and incorporated in the deed for Lot 1.

5. Certificate of Title. All deeds and easements must be covered by a certificate of title indicating that there are no encumbrances or stating what encumbrances there are and providing a partial release or subordination agreement.

6. Plan Revisions. Final plans shall be revised to:

- a. Prohibit development and clearing of steep slope areas located within the BAE/DAE boundaries.
- b. Provide adequate emergency vehicle turning and back-up space where the common driveway splits to access lots 2 and 3, including widening of the driveway on Lot 2 to 16 feet and using a larger turning radius at the Lot 1 driveway.
- c. Relocate the common driveway pull-off on Lot 1 to the west side of the driveway, either as a separate feature or incorporated into the driveway to Lot 1 and revise the driveway location to save the 26-inch oak tree.
- d. Add a note encouraging the use of best practices identified in the 2011 Appendix to the CT Stormwater Quality Manual during development of individual homesites.
- e. Add a note that addresses the requirements of Section 11.1 of the Subdivision Regulations regarding underground utilities.
- f. Include dedication of right-of-way establishing a new street line 25 feet back from the centerline of North Windham Road.

- g. Include signatures and seals of the responsible surveyor, engineer, soils scientist and landscape architect.

7. Extent of Approval. The Planning and Zoning Commission, for good cause, shall have the right to declare this approval null and void if the following deadlines are not met (unless a ninety or one hundred and eighty-day filing extension has been granted):

- a. All final maps, including submittal in digital format, right-of-way deeds for North Windham Road, conservation easements, and a Notice on the Land Records to address conditions #1 and 2 (with any associated mortgage releases) shall be submitted to the Planning Office no later than fifteen days after the appeal period provided for in Section 8-8 of the State Statutes or, in the case of an appeal, no later than fifteen days of any judgment in favor of the applicant;
- b. All monumentation (including right-of-way dedication and delineation of agricultural/conservation areas with iron pins and the town's official markers every 50 to 100 feet on perimeter trees or cedar posts), with Surveyor's Certificate shall be completed pursuant to the Commission's approval action and Section 14 of the Subdivision Regulations no later than fifteen days after the appeal period provided for in Section 8-8 of the State Statutes or, in the case of an appeal, no later than fifteen days of any judgment in favor of the applicant.

MOTION PASSED UNANIMOUSLY.

- b. Scenic Road Application, Brown's Road west of Storrs Road/Route 195; Jonathan Sgro, Applicant, PZC File #1010-9**

Holt disqualified herself. Lewis stated that he will remain opposed to any Scenic Road Applications until the Town commits to making the roads more bicycle and pedestrian safe.

Ryan MOVED, Hall seconded, that the Planning and Zoning Commission designate Brown's Road between Storrs Road and the western boundary of the property located at 91 Brown's Road as a Scenic Road as presented in the application dated February 25, 2013 and presented at public hearing on April 15, 2013. This approval is granted because the application has met the requirements of Section 149a of the Connecticut General Statutes and Chapter 155 of the Mansfield Code of Ordinances. **MOTION FAILED** with Ryan, Goodwin and Hall in favor and Lewis, Chandy, Rawn, Plante and Ward opposed.

- c. Special Permit Application, Efficiency Unit, 85 Birchwood Heights, M. Balsamo Owner & Applicant: PZC File #1316**

Holt MOVED, Ward seconded, to approve the March 11, 2013 application of Margherita Balsamo to allow an efficiency dwelling unit at 85 Birchwood Heights Road in an RAR-90 zone, as shown on submitted plans and described in other application submissions and as presented at Public Hearing on April 15, 2013.

Pursuant to Article V, Section B.4 of the Mansfield Zoning Regulations, the site plan requirements contained in Section B.3.d are hereby waived as there is no proposed expansion of the building and the information is not needed to determine compliance with the zoning regulations.

This approval is granted because the application is not expected to result in any detrimental neighborhood impacts and is considered to be in compliance with Article X, Section L; Article V, Section B; and other provisions of the Mansfield Zoning Regulations, and is granted with the following conditions:

- 1. This approval has been granted for a one-bedroom efficiency in association with a single-family home having up to four additional bedrooms. Any increase in the number of bedrooms on this property shall necessitate subsequent review and approval from the Eastern Highlands Health District and the Planning and Zoning Commission.

2. The applicant shall install a pathway along the west side of the unit to provide pedestrian access from the driveway to the exterior entrance. To traverse the slope, stairs may be needed at the bottom of the path.
3. This approval is conditioned upon continued compliance with Mansfield's Zoning Regulations for efficiency units, which include owner-occupancy requirements, limitations on the number of residents in an efficiency unit and limitations on the number of unrelated individuals that may live in a dwelling unit pursuant to the definition of Family contained in the Zoning Regulations. These limitations apply regardless of the number of bedrooms present in the home. Pursuant to Article X, Section L.2, the applicant shall submit a notarized affidavit certifying owner occupancy and a written statement regarding compliance with efficiency unit regulations every two years, starting on January 1, 2014.
4. This special permit shall not become valid until filed upon the Land Records by the applicant.

MOTION PASSED UNANIMOUSLY.

d. Modification Request, Public Petroleum, 1659 Storrs Road, PZC File #1120

Attorney Samuel Schrager explained the proposed request for a modification, and Alan Lamson, the engineer, presented a depiction of the layout showing the changes in the building's foot print and façade. After extensive discussion, the consensus of the Commission was that this proposal encompasses new construction and other issues that are beyond the scope of issues normally and properly handled by way of a modification. Rawn MOVED, Ward seconded, to deny the modification request on the basis that this proposal is extensive and necessitates a Special Permit Application. MOTION PASSED UNANIMOUSLY.

New Business:

a. Pre-Application Review: 574-596 Middle Turnpike, PZC File #1317

Hirsch noted the memo from the Director of Planning and Development and noted that this item has been referred to staff and committees as part of our pre-application subdivision review process. The item will be tabled until the next meeting for discussion.

b. New Special Permit Application, Efficiency Unit, 92 Cedar Swamp Road, T. & C. Jeffers, Owner & Applicant: PZC File #1318

Ryan MOVED, Holt seconded, to receive the Special Permit Application (File #1318) submitted by Todd and Christine Jeffers for a Efficiency Unit on property located at 92 Cedar Swamp Road as shown on plans dated 3/11/13, as shown and described in application submissions, and to refer said application to staff and committees for review and comments, and to set a Public Hearing for 6/3/13. MOTION PASSED UNANIMOUSLY.

c. Request for Bond Release, Gibbs Oil Company, 9 Stafford Road, PZC File #404-3

Plante MOVED, Hall seconded, that the PZC authorize the staff to release the \$5,000 site development bond with accumulated interest to the Gibbs Oil Company, because it does not have a development interest in the subject property and no longer owns the property. MOTION PASSED UNANIMOUSLY.

d. EIE for the Eastern Connecticut State University 2008 Campus Plan Update

Holt MOVED, Chandy seconded, to authorize the PZC Chair to submit comments on the ECSU Campus Plan EIE to the Connecticut Board of Regents as per the attached draft letter presented to the Commission for review, provided the letter is revised to provide additional emphasis on the athletic field lighting; specifically that the lighting be more closely monitored, be downward directed, and used only during actual times of field use. MOTION PASSED UNANIMOUSLY.

e. Mansfield Tomorrow | Our Plan ▶ Our Future:

As per their requests, the Commission added John Sobanik from Celeron Square to the Housing Focus Group, and added Ed Wazer from Shudahai Farm and Karen Green to the Agriculture Focus Group.

Reports from Officers and Committees: None noted.

Communications and Bills: None noted.

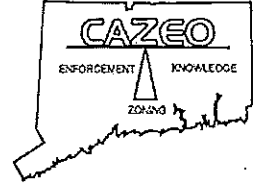
Adjournment: The Chairman declared the meeting adjourned at 8:20 p.m.

Respectfully submitted,

Katherine Holt, Secretary



Town of Mansfield



CURT B. HIRSCH
ZONING AGENT
HIRSCHCB@MANSFIELDCT.ORG

AUDREY P. BECK BUILDING
4 SOUTH EAGLEVILLE ROAD
MANSFIELD, CT 06268-2599
(860) 429-3341

Memo to: Planning and Zoning Commission
From: Curt Hirsch, Zoning Agent
Date: May 1, 2013

MONTHLY ACTIVITY for April, 2013

ZONING PERMITS

<u>Name</u>	<u>Address</u>	<u>Purpose</u>
Ferrari	8 Mansfield Hollow Rd. Ext.	shed
Stevens	415 Bassett's Bridge Rd.	lean-to on barn
Pfau	44 Mountain Rd.	8 x 10 shed
Roy Jewelers	119 Storrs Rd.	building identity sign
Knox	146 Birch Rd.	grnd. solar array
Zweifach	7 Costello Cir.	In-grnd. Pool
Maharaja Indian Restaurant	466 Storrs Rd.	identity signs
Mansfield Village	91 Chaffeeville Rd, Lot 9	replacement home
Mansfield Village	91 Chaffeeville Rd, Lot 10	replacement home
Hultgren	404 Woodland Rd.	deck expansion
Butler	45 Hillcrest Rd.	10 x 12 shed
Swart	111 D Depot Rd.	8 x 10 shed
Perkins	228 Browns Rd.	12 x 16 shed
Grandma's Comfort Foods	452 Stafford Rd.	building identity sign
Choi	75 Beacon Hill Rd.	10 x 12 shed
Hope Lutheran Church	62 Dog La.	Roof over existing stairs
Mansell	101 Woodland Rd.	12 x 16 shed
Watson	604 Stafford Rd.	8 x 8 shed
Niarhakos	125 S. Bedlam Rd.	inground pool
Niarhakos	136 Brookside La.	12 x 20 deck
Kueffner	2007 Storrs Rd.	ticket/office structures
Perkins	471 Storrs Rd.	10 x 12 shed

CERTIFICATES OF COMPLIANCE

Jahandari	57 Candide La.	Sunroom/deck
Gaiety	534 Storrs Rd.	retail antiques
Recchio	87 Charles La.	Deck
Choi	75 Beacon Hill Rd.	shed
Anderson	38 Ellise Rd.	deck

PAGE
BREAK

TOWN OF MANSFIELD
DEPARTMENT OF PLANNING AND DEVELOPMENT

LINDA M. PAINTER, AICP, DIRECTOR

Memo to: Planning and Zoning Commission
From: Linda M. Painter, AICP, Director of Planning and Development *gcp*
Date: May 2, 2013
Subject: Subdivision Design Process Application (File 1317)
Campus Crossings (574 and 596 Middle Turnpike)

Project Overview

In accordance with Section 5.1 and 5.2 of the Mansfield Subdivision Regulations, any subdivision containing 4 or more lots or a street is required to go through the Subdivision Design Process. Campus Crossing LLC is the owner of property at 574 and 596 Middle Turnpike, which is where the new North Hillside Road extension will connect to Route 44. Due to the way in which the new right-of-way will split the property, they are proposing to subdivide the existing property into 5 lots. As such, they are required to go through the subdivision design process. Since the road extension is a state project, the comments provided during the design process will be focused the lots themselves, not the location or design of the new road.

As noted in my April 11, 2013 memo, I have consolidated the two steps in the design process. Other departments and committees have been asked to provide comments by May 10th. To date, comments have been received from Eastern Highlands Health District and the Four Corners Sewer and Water Advisory Committee. Eastern Highlands has noted the need for the applicant to demonstrate sufficient area for repairs to the existing septic systems on Lots 1 and 3 and the Four Corners Committee reiterated the need for development to conform to the Design Standards contained in Article X, Section A.11 including minimization of curb cuts and recommendations that the applicant coordinate with both the University of Connecticut and the Mansfield Downtown Partnership.

If the Commission feels a site visit is needed, that determination should be made at the May 6th meeting. If no site visit is needed, comments from the Commission could be provided through discussion on May 6th. Comments from other agencies received after May 6th would be included in my final comments to the applicant.

Preliminary Comments

The following are my initial review comments based on the materials submitted:

Conformance with Zoning Regulations

The subject property is zoned PB-3. Pursuant to Article VIII of the Zoning Regulations, the following are the applicable dimensional regulations for lots in the PB-3 district. Additionally, the property is subject to the design standards contained in Article X, Section A.11 and Article X, Section R.

Minimum Lot Area/Acres. There is no minimum lot size required in the PB-3 zone. Pursuant to Footnote 5, lot size is governed by the required setbacks, parking and loading as well as other requirements of the regulations. As noted below under setbacks, adjustments would be needed to allow development of Lot 2 given its 90 foot width. The applicant also needs to show that Lot 2 is large enough to meet well and septic system design requirements.

Minimum Lot Frontage. The minimum lot frontage in the PB-3 zone is 300 feet. Lots 1, 2, 4 and 5 have 300 feet of frontage or greater on the new North Hillside Road extension. Lot 3 has 300 feet of frontage on Middle Turnpike (Route 44).

Setbacks. Lots 1 and 3 have existing buildings. As noted on the plan, the building on Lot 1 is non-conforming to current setback requirements and lies partially within the minimum required front yard setback. However, pursuant to Article X, Section A.4.d, the Commission has the authority to establish setbacks in Design Development Districts. As any new development would require a special permit approval, setbacks for new buildings could be addressed at that time or the Commission could establish building and development area envelopes through the subdivision process.

It is important to note that the width of Lot 2 along Middle Turnpike would require reductions in either the minimum 50-foot wide streetscape required along North Hillside Road or the 50 foot side yard setback adjacent to Lot 3. Reduction of the side yard setback would be more appropriate than a reduction to the streetscape; however, such a setback reduction should be presented as part of a coordinated development plan for the two lots. The applicant may need to demonstrate as part of the final plan submission that the lot is large enough to accommodate a building, parking, and other requirements of the regulations.

In accordance with Section 5.1 of the Subdivision Regulations, primary considerations in designing streets, walkways/bikeways and other public improvements, lot layouts, proposed building locations, driveways, sanitary systems and other site work and identifying open space preservation areas shall be:

The protection and enhancement of vehicular and pedestrian safety through the appropriate siting of streets, driveways, walkways, bikeways and trails.

The proposed layout plan only shows the location of the current driveway entrances to the two developed parcels. Given the design of the North Hillside Road extension, common driveways should be developed that serve Lots 1 and 4 and Lots 2, 3 and 5 from North Hillside Road. These common driveways should be located as far as possible from the intersection with Middle Turnpike. No vehicular access should be provided to Middle Turnpike. The current driveway access to Lots 1, 2 and 3 should be removed.

The proposed location of the North Hillside Road extension runs through the existing parking lot for the Bank of America on Lot 1. Final subdivision plans should include a redesign of the access and parking on Lot 1. Changes to the parking design should be consistent with the Four Corners Design Standards contained in Article X, Section A.11.

With regard to pedestrian and bicycle access, there is an existing multi-use path located along Middle Turnpike and a sidewalk will be provided along one side of the North Hillside Road extension.

The protection and enhancement of existing and potential public water supply wells and ground water and surface water quality through appropriate design and installation of sanitary systems, roadways, drainage facilities, house sites and other site improvements.

Public Water Supply. Pursuant to Map 10 of the Plan of Conservation and Development, there are public water supply wells located in close proximity to the subject property. Additional information should be provided with regard to the location of these wells in relationship to the property and measures that will be taken to protect those wells. Additionally, no information regarding location of on-site wells was submitted as part of the concept plan. This information will be needed as part of any subdivision review. Information regarding proposed locations of new wells to serve the new lots should also be provided as part of the final subdivision plan review. While the Town is in the process of designing a new sewer and water system for the Four Corners area, there is no guarantee that this system will be in place prior to development. As such, the applicant should demonstrate the ability of the proposed lots to support new well and septic systems as part of the subdivision process.

Low Impact Development. To the maximum extent possible, Low Impact Development techniques as identified in the 2011 Appendix to the Connecticut Stormwater Quality Manual should be used to maintain pre-development hydrology.

Well and Septic Suitability. Eastern Highlands Health District has noted that the applicant needs to demonstrate that sufficient area is available for septic system repairs on Lots 1 and 3, which will require soil testing. As the University has indicated that these lots will not be connected to the sewer system in North Hillside Road, the applicant will also need to demonstrate that septic systems could be constructed on Lots 2, 4, and 5 as part of the final subdivision review.

The protection and enhancement of natural and manmade features, including wetlands, watercourses, aquifer areas, agricultural lands, hilltops or ridges, historic sites and features, expanses of valley floors, interior forests, significant trees and scenic views and vistas on and adjacent to the subdivision site. Wherever appropriate, site features shall be protected through a clustering of streets and house sites and the identification and preservation of significant open space areas including agricultural lands, interior forests and other land without physical limitations.

Wetlands. No wetlands were identified as part of the submission.

Agricultural Soils. It appears that the majority of Lots 4 and 5 contain prime agricultural soils as identified by the State of Connecticut. Consideration should be given to clustering development along Route 44 to retain a significant portion of the prime agricultural soils for agricultural use through dedication of an agricultural easement. Pursuant to Section 7.6 of the Subdivision Regulations, the Commission can reduce required frontage and setbacks to preserve agricultural land.

Streetscape. The site analysis plan submitted by the applicant indicates that nine of the ten sugar maples along Route 44 are failing mainly due to road salts, lack of irrigation and possible root damage sustained during bike path construction. These trees should be replaced. The 36 inch maple located at the northwest corner of the property is in good condition and should be preserved.

Stone wall. There is an existing stone wall located the length of the southern boundary. This wall should be preserved; placement within a conservation easement to ensure its preservation may be appropriate.

Wildlife. A portion of the property is located within a Natural Diversity Database area. As such, the applicant should coordinate with DEEP to determine whether any species exist and what mitigation/protection measures are needed.

The utilization of a site's natural terrain, avoiding unnecessary re-grading, filling and removal activities.

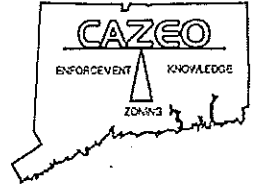
The property is gently sloped, with grades ranging from 2% to 9%. Regrading should be minimized during redevelopment to the maximum extent possible. Since this is a commercial property, it is expected that determinations on grade changes would be made during special permit review of proposed development.

The promotion of energy efficient patterns of development and land use, energy conservation and the use of solar and renewable forms of energy through the appropriate siting of streets, driveways and house sites, and wherever appropriate, bikeway and walkway/trail connections to neighboring streets and neighborhoods; existing and planned commercial areas; schools, parks and other public facilities and town designated walkway or bicycle routes.

Any new/redevelopment should be designed to maximize solar access and energy efficiency.



Town of Mansfield



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ZONING AGENT
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AUDREY P. BECK BUILDING
4 SOUTH EAGLEVILLE ROAD
MANSFIELD, CT 06268-2599
(860) 429-3341

Memo to: Planning & Zoning Commission
From: Curt Hirsch, Zoning Agent
Date: May 2, 2013

Re: Request for B.A.E. exception for shed, 140 Wormwood Hill Rd.
P. & C. Gile, owners. Mulwood East Subdivision, PZC file # 1225

Article VIII, Section B.1.d authorizes the PZC to approve smaller sheds in areas outside of building area envelopes on subdivision lots approved after 2/20/02. Such sheds shall not exceed 200 square feet in area and ten feet in height, shall not be used as a motor vehicle garage or for housing animals or humans. This regulation allows the PZC to approve smaller sheds provided that the shed meets the standards above; there is a minimum 10-foot setback from side or rear lot lines; the shed is within a PZC-approved development area envelope and the shed is consistent with subdivision standards regarding the protection of significant natural and manmade features and/or scenic views and vistas.

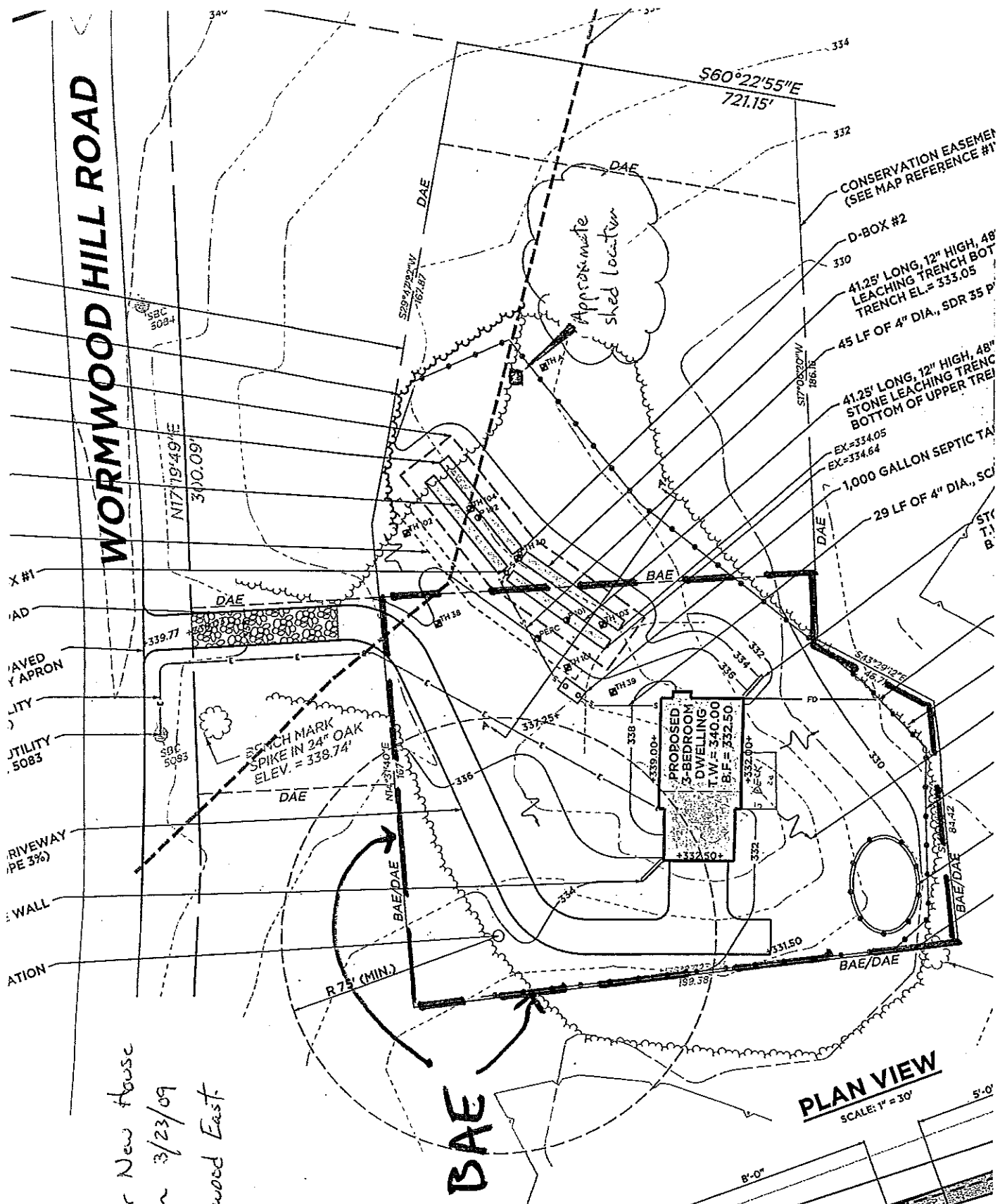
Peter & Courtney Gile of 140 Wormwood Hill Road have requested an exception under the above cited regulation for an 8' x 10 'shed-style greenhouse'. This property is Lot 5 of the Mulwood East Subdivision, approved in 2005. The Gile's have submitted a justification for this request along with a plot plan based on the as-built plan for their house. I have supplemented this with the zoning permit plan approved for the house. This is a very small, stone floor structure and the applicants have demonstrated that it is compliant with the criteria necessary for the PZC to grant the exception. The location exceeds a set back of ten feet from the rear and side lot lines and is within the designated DAE. The sheds location is right on the edge of a regulated wetland area based on the subdivision map and Mr. Gile has talked with the Wetland Agent about this location. I have reviewed the proposed location with respect to the protection of significant natural and manmade features and scenic views and vistas. In my opinion the location of the shed will not conflict with these standards.

I recommend that the PZC authorize the placement of a 8 by 10-foot greenhouse at 140 Wormwood Hill Rd. as described in 5/2/13 letter from P. & C. Gile, and depicted on the submitted 5/2/13 plan, as provided for under Article VIII, section B.1.d of the regulations, subject to review and approval of the Wetland Agent.

BAE Exception for shed

WORMWOOD HILL ROAD

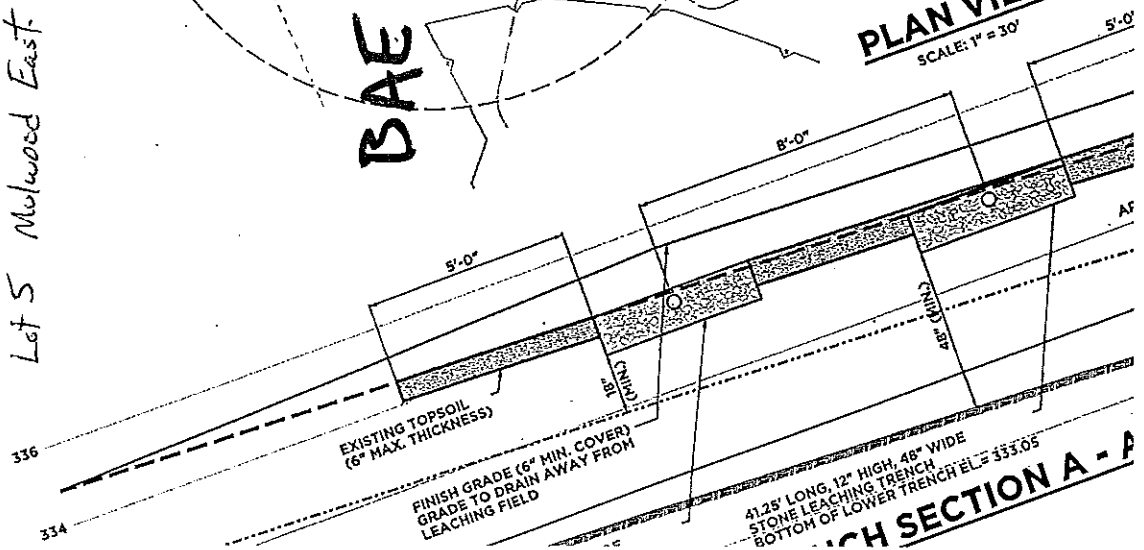
Plot Plan for New House
Construction 3/23/09
Lot 5 Mulwood East.



BAE

PLAN VIEW

SCALE: 1" = 30'



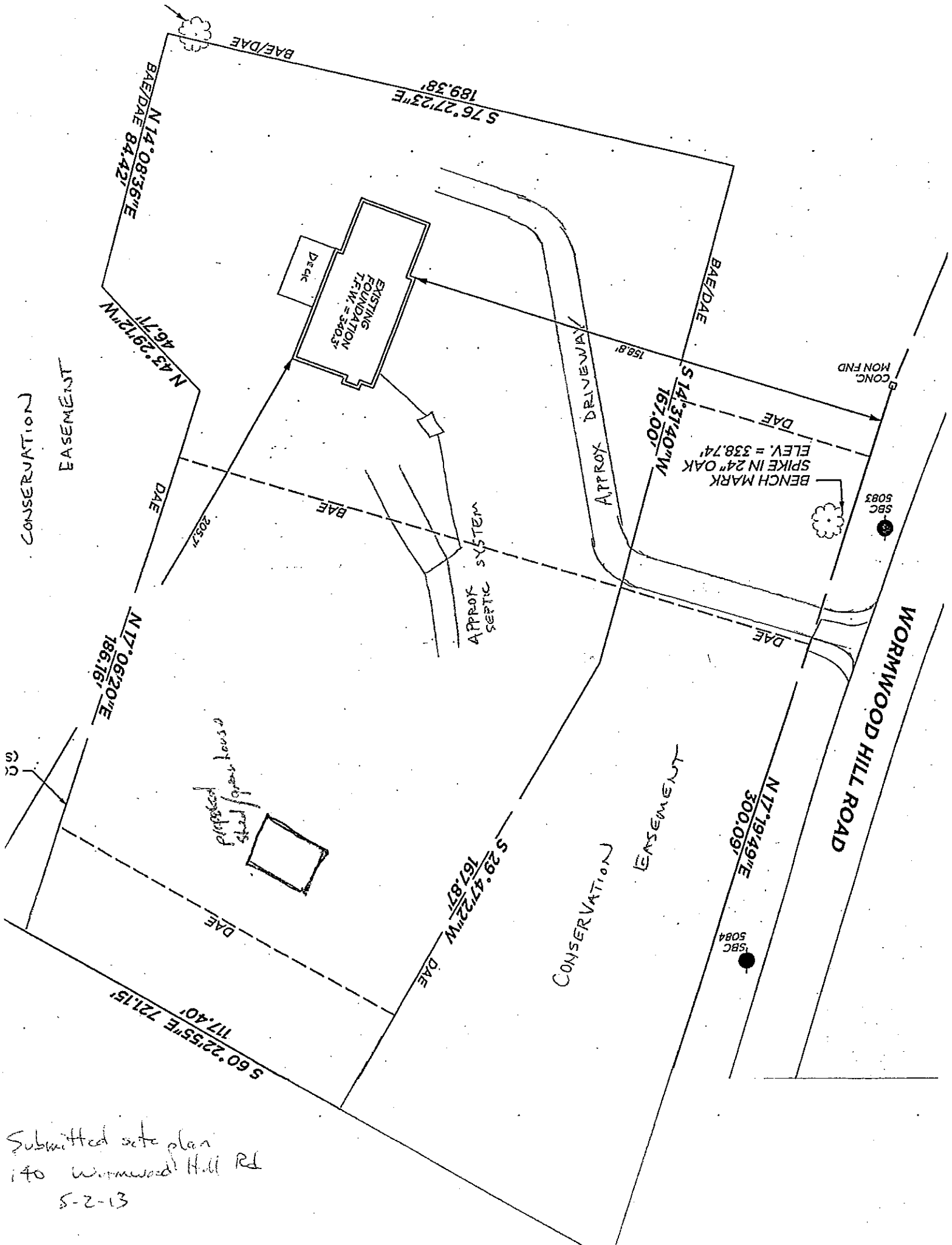
CROSS SECTION A - A

To whom it may concern,
I am writing this letter asking for special permission to build off of my BEA building envelope. I wish to build a shed style green house using reclaimed wood and windows. The purpose of the structure is not for any type of storage. Nothing will be kept in the proposed structure out side of simple gardening tools i.e. shovels, rake, soil and plants.

The proposed structure will meet the required exemptions stated in Exemptions to the Schedule of dimensional requirements and special dimensional provisions section d. The structure will be 10 feet long by 8 feet wide approximately 10 feet high. The structure will contain half inch crushed stone floor. Again this structure will not be used for anything except the items stated above. I'm hoping this letter meets all required information needed for a decision. Thank you for your time.

Thank you sincerely
Peter and Courtney Gile
140 Wormwood Hill RD.

Received May 2, 2013



Submitted site plan
 140 Wormwood Hill Rd
 5-2-13

TOWN OF MANSFIELD
DEPARTMENT OF PLANNING AND DEVELOPMENT

LINDA M. PAINTER, AICP, DIRECTOR

Memo to: Planning and Zoning Commission
From: Linda M. Painter, AICP, Director of Planning and Development *gmp*
Date: May 2, 2013
Subject: Storrs Center Alliance LLC
Subdivision Application (2 lots), Storrs Road south of Dog Lane
(PZC File 1246-11)

On March 18, 2013, the PZC approved a 2-lot subdivision for Storrs Center Alliance subject to several conditions, including the following:

All monumentation with Surveyor's Certificate, shall be completed pursuant to the Commission's approval action and Section 14 of the Subdivision Regulations no later than fifteen days after the appeal period provided for in Section 8-8 of the State Statutes, or, in the case of an appeal, no later than fifteen days, of any judgment in favor of the applicant.

The above condition is generally applied to all subdivisions, pursuant to Section 14 of the Subdivision Regulations. However, due to the impending construction of the TS-3 building on Parcel 1 of the subdivision and future plans for a common driveway along the common property line between Parcels 1 and 2, it does not make sense to require installation of the monumentation at this time as it would be destroyed through the construction process.

If the Commission concurs, the following motion would be in order:

_____ MOVES, _____ SECONDS approval of a modification to the conditions of approval for the Storrs Center 2-lot subdivision (File #1246-11) to change Condition Number 5B to read as follows:

Monumentation with Surveyor's Certificate for Parcel 1 shall be completed prior to the issuance of a Certificate of Occupancy for the building on Parcel 1 with the exception of monumentation located along the common property line with Parcel 2. Monumentation with Surveyor's Certificate for Parcel 2, including the common property line with Parcel 1, shall be completed prior to issuance of a Certificate of Occupancy for the building on Parcel 2. This condition shall be included in any zoning permit issued for Parcels 1 and 2.

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TOWN OF MANSFIELD
DEPARTMENT OF PLANNING AND DEVELOPMENT



LINDA M. PAINTER, AICP, DIRECTOR

Memo to: Mansfield Planning and Zoning Commission (PZC)
From: Linda M. Painter, AICP, Director of Planning and Development *LMP*
Date: May 2, 2013
Subject: Paideia Request to Construct Exhibit Area and Upper Plaza of Amphitheatre Project at
28 Dog Lane, PZC File # 1049-7

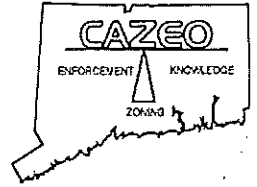
In 2011, the applicant submitted a revised plan for the proposed exhibit hall and associated plaza. Due to inconsistencies between the site plan prepared by the architect and the landscape plan prepared by the landscape architect, the Commission tabled consideration of the revised plans until new plans were submitted. The applicant submitted new plans last week and would like to proceed with the modification request. Due to the length of time that has passed and the number of new members on the Commission, I recommend that a field trip be scheduled prior to Commission consideration of the revised plans.

If the Commission concurs, the field trip would be scheduled for the afternoon of May 15, 2013.

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Town of Mansfield



CURT B. HIRSCH
ZONING AGENT
HIRSCHCB@MANSFIELDCT.ORG

AUDREY P. BECK BUILDING
4 SOUTH EAGLEVILLE ROAD
MANSFIELD, CT 06268-2599
(860) 429-3341

To: Planning & Zoning Commission
From: Curt Hirsch, Zoning Agent
Date: May 2, 2013

Re: Gravel Permit Renewals

There are four "active" gravel permits, which are due to expire on July 1, 2013. I have sent the permittees a standard form letter asking if they are seeking renewal of their special permits. I am still waiting on two of the permittee's to respond. The regulations allow for a May 15th return date but in order to get the required legal notice into the newspaper for a public hearing on the Commission's first June meeting, a hearing date needs to be approved at your 5/6/13 meeting. I fully expect that the two permittee's will request renewals of their permits. They four are:

Steven Banis, Pleasant Valley Rd., file 1164
Edward Hall, Old Mansfield Hollow Rd. file 910-2
Karen Green, 1090 Stafford Rd., file 1258
Chris Kueffner, 3 Merrow Rd., file 1309

I recommend that the Commission set a public hearing for June 3, 2013 for the purpose of hearing special permit, gravel renewal requests.

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CONNECTICUT FEDERATION OF PLANNING AND ZONING AGENCIES QUARTERLY NEWSLETTER

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65th ANNUAL CONFERENCE

At its latest Annual Conference, Federation members were treated to a presentation on the topic of municipal commission member liability as it relates to decisions they make in that capacity. Many members have faced a growing trend that when a decision made by their agency is appealed to court, they are often named as individual defendants. This potential for personal liability has caused concern to many Federation members. Just how justified this concern is was the subject addressed by our speaker, Attorney James Stedronsky of Litchfield Connecticut. Drawing on his personal experience as well as recent case decisions, Jim entertainingly concluded that while personal lawsuits can not always be prevented, the current state of the law is that land use agency members are immune from such personal attacks unless they behaved in a reckless manner. If you were unable to attend the conference and would like to obtain a copy of the presentation materials, please send a message to us at cfpza@live.com and we will get them to you.

In addition, the 65th Annual Conference featured the presentation of a number of service awards by the meeting's moderator, James Steck. These deserving individuals were recognized for their selfless commitment to their communities in a role that often goes unappreciated. March 20, 2014 has been set for next year's Conference. Please reserve the date.

SITING COUNCIL'S JURISDICTION OVER WIND TURBINES AFFIRMED BY COURT

An application to construct 3 wind turbines was approved by the Connecticut Siting Council. These turbines would be over 80' tall with propellers having a circumference of over 80'. Each turbine would have a generating capacity of 1.6MW each and be connected to the electrical power grid. Following accepted procedure, the turbine applicant by-passed local zoning and filed its application with the Connecticut Siting Council. A neighborhood group objecting to these turbines intervened in the Siting Council Process. They appealed the Council's approval of the application to the court on several issues, one of which being that the application should have been before the local zoning board as the Siting Council did not have jurisdiction over the application.

The Siting Council's jurisdiction is derived from the General Statutes. In this case it was Connecticut General Statute § 16-50k which provides that the Siting Council is authorized to regulate facilities. Since 'facilities' is defined as a project using fuel, the neighborhood group argued that the wind turbine project was not a facility as it did not use fuel to generate power. The court rejected this argument as this was too narrow a definition of fuel. The Court reasoned that fuel is defined as something which is burned, it can also include something which provides

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power, such as water or wind. Thus, jurisdiction of this project was correctly with the Siting Council. See *Fairwindct Inc. v. Connecticut Siting Council*, CV-11-6011470 (2012).

U.S SUPREME COURT RELIES ON 'REASONABLE OBSERVER' TO DETERMINE WHAT IS A BOAT

The Supreme Court of the United States was provided the task of determining whether a floating house was a vessel. The floating house in question did not have a motor, nor did it have a rudder or any other means of propulsion or steering. Instead, it was a flat bottomed floating residence that was tied to a dock where it was hooked up to water, sewer and power services. When a dispute over dock fees emerged between the 'boat' owner and the municipally owned marina, the municipality sought to seize the floating home under maritime law claiming it was a vessel. This dispute eventually found its way to the Supreme Court.

The issue before the court was whether this floating home was a vessel under maritime law. The law in question defined a vessel as a watercraft or other contrivance capable of being used as a means of transportation on water.

In reaching its decision that this floating home was not a vessel, the Court stated what could be called a "reasonable observer test" which is that "a structure does not fall within the scope of this statutory phrase unless a reasonable observer, looking at the

home's physical characteristics and activities, would consider it designed to a practical degree for carrying people or things over water." Thus, if it doesn't quack or waddle like a duck, it's not a duck. Since this floating home, to a reasonable observer, would not be capable of being used as a means for water transport, it was not a vessel and thus not subject to maritime laws.

This decision by the Supreme Court should prove useful in the realm of enforcing zoning regulations as it will allow for the reasonable application of regulations to uses of land which appear to any reasonable person to be one thing but the owner claims it to be something else. See *Lozman v. City of Riviera Beach*, No. 11-626 (1/15/13)

PARKING REQUIREMENTS NOT TO BE USED TO ENFORCE OCCUPANCY LIMITS

A zoning enforcement officer sought an order from a court for a temporary injunction because the owner of a sports bar had ignored a cease and desist order regarding the number of occupants in its business. The approved site plan showed 60 parking spaces for this business use. Under the applicable zoning regulations, this would allow the bar to have 180 occupants at any given time. There was evidence that at special events, this bar would have far more people in attendance.

The Court denied the request for a temporary injunction. It did so because it viewed parking requirements

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in zoning regulations as a traffic control measure and not as a direct method of enforcing building occupancy limits. After all, a minivan or SUV can deliver a far greater number of persons to a business than an economy car. The court also found that the town's interpretation and application of its parking restriction to regulate occupancy limits ignored mass transit, a peculiar thing for a city to do. *See Massi v. Phoenix Management Group One*, 54 Conn. L. Rptr. 605 (2012).

COMMISSION REMOVES RESTRICTION ON METHADONE CLINIC

What was viewed as a first of its kind regulation in this State, a planning and zoning commission had adopted a zoning regulation which had the effect of limiting where drug treatment centers, such as methadone clinics, could locate. This was done by creating a floating zone which made these uses special permit uses and thus subject to additional requirements.

The regulation came under attack from several directions, including the U.S. attorney's office, which claimed the regulation discriminated against drug treatment centers. The Commission has since removed this regulation from its regulations.

Commissions must tread carefully in the regulation of drug treatment centers and similar uses, such as half-way houses and sober houses. Such uses can come under the protection

of the Americans With Disabilities Act as well as other Federal Laws, providing them with legal remedies far beyond those of other land owners.

The legalization of medical marijuana may add to this list of protected uses.

CLEARING OF DRAINAGE DITCH IS AN EXEMPT ACTIVITY

A farmer may maintain drainage ditches as an exempt activity as was the case where the property owner had removed about 5 cubic yards of organic debris from a drainage ditch. Such was the ruling of a court which analyzed CGS sec. 22a-40(a)(1) and listed the 6 specified activities which are NOT allowed as of right for property used for farming.

Since farming is a favored activity, these specified activities which are not 'as of right' are not to be interpreted in such a way that it would be not be overly restrictive. *See Taylor v. Fairfield Conservation Commission*, 54 Conn. L. Rptr. 657 (2012).

ABOUT THE EDITOR

Steven Byrne is an attorney with an office in Farmington, Connecticut. A principle in the firm of Byrne & Byrne, he maintains a strong focus in the area of land use law and is available for consultation and representation in all land use matters both at the administrative and court levels.

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